REMARKS

Applicant has carefully reviewed the office action mailed May 24, 2006 and offers the following remarks to accompany the above amendments.

Amendments

Applicant has amended claims 1, 13, 25, and 37 to clarify that the first and second nodes are ones of the plurality of nodes in the peer-to-peer public network. Applicant has amended claims 8 and 20 to correct typographical errors. Applicant has amended claims 12 to be consistent with step (d) of claim 1. Applicant has amended claim 36 to be consistent with instruction (d) of claim 25. Applicant has amended claim 43 to be consistent with step (e) of claim 37.

Arguments

Claims 1-43 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,510,154 B1 to Mayes et al. (hereinafter "Mayes"). Applicant respectfully traverses. For a reference to be anticipatory, the reference must disclose each and every claim element. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. The requirement that each and every element be disclosed in the manner claimed is a rigorous standard that the Patent Office has not met in this case.

Prior to addressing the rejections in detail, an overview of the invention is warranted. The present invention allows files to be privately transferred through a public peer-to-peer network. The public peer-to-peer network includes a plurality of nodes, which are part of a private network, which is formed within the public peer-to-peer network. To facilitate location and transfer of files, a server is configured to receive a search request for a file from a first node. Based on the request, the server will identify nodes that may contain the requested file. Once the nodes that contain the file are identified, the server will determine whether one of the nodes containing the file resides on a private network. Once a second node that has the file and that resides on the private network is identified, the server will provide instructions to the first node. These instructions will direct the first node to request the file from the second node. As such, the second node may transfer the file over the private network to the first node.

Mayes provides a security mechanism that is capable of providing network address translations between the Internet (38) and an enterprise network (36). The router (48) which resides in the enterprise network (36), is asserted by the Patent Office to provide the functionality of the server for the present invention. The router (48) of Mayes cannot be construed as the server of the present invention. Mayes provides a clear definition for their router (48) in col. 3, lines 17-21 as follows:

> A "router" is a piece of hardware which operates at the network layer to direct packets between various nodes of one or more networks. The network layer generally allows pairs of entities in a network to communicate with each other by finding a path through a series of connected nodes.

As defined, and is clearly understood by one of ordinary skill in the art, a router is simply a piece of hardware that allows various nodes, such as client nodes and server nodes, to communicate with each other. A router simply receives packets intended for a destination and forwards the packets toward the destination.

The server of the present invention receives requests from nodes, provides processing in response to the request, and then sends a response to the node, which originated the request. In essence, the nodes and the server function in a traditional client-server relationship. The independent claims clearly define such a relationship. As such, the router in Mayes is simply not a server as claimed in the present invention.

As amended, each of the independent claims 1, 13, 25, and 37 essentially recite that this server will provide the following functions:

- receive a search request from the first node of the plurality of nodes in the peer-to-peer public network for a file;
- determine that the file is stored on a second node of the plurality of nodes in the peer-to-peer public network;
- determine that the first and second nodes are part of the same private network; and
- send instructions to the first node to request the file from the second node, such that the file may be transferred from the second node to the first node of the private network.

For the step reciting "receiving by the server a search request from a first node in the peer-to-peer public network for a file," the Patent Office points to col. 4, line 65 through col. 5, line 5 and col. 3, lines 25-45 in Mayes. First, as discussed in prior communications with the

Patent Office, Mayes fails to disclose that the nodes (52) and (56) are part of a peer-to-peer public network. Secondly, assuming *arguendo* that the router (48) falls within the general definition of a sever, which Applicant strongly believes that it does not, the router (48) of Mayes fails to receive a search request. Before proceeding, it should be noted that one of ordinary skill in the art will recognize that a search request is fundamentally different than the packet (60b) in Mayes. For the claimed search request, which may be implemented using one or more packets, the server, rather than the second node, is the intended recipient. Further, the purpose of the search request is for the server to identify another node in the peer-to-peer public network having a file identified by the search request stored thereon. When sending the search request, the first node is yet to know which node in the peer-to-peer public network from which the file will be obtained. So, in laymen's terms, the first node asks the server "Who has the file X?" or "Who has a file satisfying search terms Y and Z?". As discussed below, the server then identifies the second node, determines that the second node is in the same private network as the first node, and instructs the first node to request the file from the second node via the private network (these elements are discussed below).

In contrast, the second node (56) of Mayes is the desired recipient identified in the packet (60b) from the first node (52). The router (48) simply operates to route the packet (60b) from first node (52) to the intended recipient, which in the example given is the second node (56). Thus, in other words, the first node (52) sends the packet (60b), which is addressed to the second node (56), to the router (48), and the router (48) routes the packet (60b) to the second node (56). Thus, it is fundamentally incorrect to interpret the packet (60b) of Mayes as a search request.

For the step of "determining by the server that the file is stored on a second node in the peer-to-peer public network," the text at col. 4, line 55 through col. 5, line 5 is again used as reference. The router (48) does not determine that the file corresponding to the search request is stored on the node (56). As discussed above, the router (48) of Mayes simply routes the packet (60b) to the intended recipient, which is the node (56).

For the step of "instructing the first node to obtain the file from the second node," the Patent Office again relies on the text at col. 4, line 55 through col. 5, line 5. Again, upon receiving the packet (60b) from the first node (52), the router (48) simply routes the packet (60b) to the desired recipient, which is the second node (56). Nowhere in Mayes is it disclosed that, in response to receiving the packet (60b) from the first node (52), the router (48) instructs the first

node (52) to then send a request to the second node (56). In fact, this would be contrary to the teaching of Mayes.

As mentioned above, the standards for anticipation are quite rigid. For a reference to anticipate a claimed invention, each element must be disclosed completely in the prior art reference. Since Mayes fails to disclose each and every claim element in claims 1, 13, 25, and 37, these claims define patentable subject matter. Further, the remaining claims, 2-12, 14-24, 26-36, and 38-43 further define patentable subject matter of claims 1, 13, 25, and 37, respectively.

New Claims 44-47

Applicant has added new claims 44-51. Support for claims 44-47 can be found on p. 10, line 20 through p. 11, line 5 and Figure 4A of the original specification. Claims 44-47 further define patentable subject matter of claims 1, 13, 25, and 37.

Conclusion

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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